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Attorneys for Defendant *Safieh Fard*

UNITED STATES DISTRICT COURT
FOR THE CENTRAL DISTRICT OF CALIFORNIA

UNITED STATES OF AMERICA,	}	Case: SACR 07-52-CJC
Plaintiff,		FARD'S OBJECTIONS TO THE
vs.		PSR.
Safieh Fard Defendant		Sentencing Date: May 13, 2011 Hearing Time: 11:00

TO THE HONORABLE CORMAC J. CARNEY, UNITED STATES DISTRICT
JUDGE, THE UNITED STATE ATTORNEY'S OFFICE AND ITS ATTORNEYS
OF RECORD, ERIN MELLEN AND MARK WILLIAMS:

Defendant SAFIEH FARD, by and through his counsel of record, CJA
Panel Attorney Correen Ferrentino and Karren Kenney, hereby files these
objections to the Presentence report filed April 8, 2013.

Fard's Supplemental Objections to the Presentence Report

Disclosed May 3, 2013

Paragraph 11

Ms. Fard objects to the extent to which probation concludes she provided false information to the bank.

Paragraph 13

Ms. Fard objects to the representation that she knew Bahramian overstated her income or owed capital gains for this sale. Quite the contrary, there was no evidence Fard knew Bahramian's application stated she had a monthly income of \$40,000. As Mina Azarian testified this information was provided by Bahramian during their meeting. In addition, the evidence at trial established that Bahramian did not pay any money to Fard and instead signed a note for \$800,000 for the down payment as reflected in the escrow documents, 1031 exchange records and her testimony. Fard never received payment on the note from Bahramian and therefore did not believe she owed capital gains. Ms. Fard did however provide mortgage documents to her tax preparer, Vicki Mulak of the sale and the 1031 exchange relating to this transaction. Ms. Mulak did not to include the sale or the 1031 exchange on her return.

Paragraph 16

Ms. Fard objects to the representation that A. Kikaleye attempted to obtain a mortgage loan in 2004 at her direction. A. kikaleye did not testify at trial and there was no other evidence at trial that Ms. Fard directed him to obtain this mortgage.

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1 **Paragraph 17**

2 Ms. Fard objects to the representation the Ms. Fard directed M.
3 Kikalaye to sell 2312 Ocean front to a third party in 2004. M. Kikalaye did
4 not testify at trial and the buyer did not testify that Fard directed the sale.
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6 **Paragraph 18**

7 Ms. Fard objects to the representation that she directed M. Kikalaye or
8 A. Kikaleye to withdraw or transfer any money. Neither M. Kikalaye nor A.
9 Kikalaye testified at trial and there is no evidence this was done at her
10 direction.

11 **Paragraph 19**

12 Ms. Fard objects to the representation that she directed M. Kikalaye or
13 A. Kikaleye to withdraw or transfer any money or A. Kikallaye to obtain or
14 cash any cashier's checks. Neither M. Kikalaye nor A. Kikalaye testified at
15 trial and there is no evidence any of this conduct was done at her direction.
16 Presumably the jury found Fard conspired to launder money but to conclude
17 she directed all of the transactions in paragraph 19 overstates what the jury
18 had to conclude, merely that Fard agreed to launder some proceeds of
19 mortgage fraud. This could have been found based on money invested into
20 properties rather than transactions involving cashier's checks.

21 **Paragraph 20**

22 Ms. Fard objects to the representation that she directed M. Kikalaye to
23 falsely report a loss on the sale of 2312 Oceanfront in 2006. M. Kikalaye did
24 not testify at trial and there was no evidence Fard directed him to do this.

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1 **Paragraph 21**

2 Ms. Fard objects to the representation she directed M. Kikalaye to
3 obtain a mortgage in July 2000 for 2314 Ocenafrent and to falsely state his
4 income and citizen status. M. kikalaye did not testify at trial and there was no
5 evidence Fard directed him to do this. In addition, there was substantial
6 evidence that information was changed on the mortgage application that
7 Mina Azariani admitted to preparing and subsequent typed documents
8 prepared internally at Washington Mutual.

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10 **Paragraph 23**

11 Ms. Fard objects to the representation that in 1999 she bought 2400
12 Oceanfront from a third party and did s by obtaining a fraudulent loan of
13 \$750,000 from an unspecified lender. There was no evidence of this at trial
14 and the fact the lender is unspecified supports the mere speculation behind
15 this conclusion. Further, Ms. Fard did not fail to report any capital gain on
16 the sale of this property to her sister, Bahramian, in 2001, because as the
17 evidence demonstrated at trial by testimony by Bahramian and tax preparer
18 Gary Pickett and escrow documents, Ms. Fard did not receive any money
19 from Bahramian. Instead Ms. Fard carried an \$800,000 note. In fact,
20 Pickett admitted on cross examination at trial that he was given mortgage
21 documents from Ms. Fard made reference to it in his workpapers however he
22 did not include the sale on the tax return.

23 **Paragraph 25**

24 Ms. Fard objects to the representation she directed A. Kikalaye to
25 obtain a mortgage in March 2004 for 3075 Broadway, Escondido in the
26 amount of \$431,000. A. kikalaye did not testify at trial and there is no
27 evidence of her direction. In addition, Fard provided information to the
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1 probation officer during the interview on April 30, 2013, that she still resides
2 at this location with her elderly mother and that she modified the loan on this
3 property. She also indicated she no longer rents out rooms but rents space
4 for individuals to store property.

5 **Paragraph 26**

6 Ms. Fard objects to the representation that she 915 South Casino center
7 Drive, Las Vegas. As submitted in Ms. Fard's supplemental exhibits, she was
8 not a buyer or a borrower on any of the mortgage documents. Ms. Fard
9 merely invested money into the property. She did not submit a letter to
10 Citibank asking it to consider financing the property. Instead, the evidence at
11 trial through government witness Michael Collins and documentary evidence
12 is that Fard did not prepare, sign or verify the Citibank letter. Ms. Fard also
13 objects to the representation that Citibank sold the loan to Lone Star at a loss
14 of \$1,157,640.10. As demonstrated in Ms. Fard's supplemental exhibits, there
15 is no record of a transfer of this property from Citibank to Lone Star. In
16 addition, Farah Anderson and Michael Collins were desperately trying to
17 refinance, modify the loan or sell the property. Collins testified that the
18 economic climate and city construction in front of the building caused the
19 drastic decrease in value. Ultimately, the evidence showed Ms. Fard invested
20 in this property but did not fraudulently represent anything to anyone to
21 obtain a mortgage and in fact did not obtain a mortgage.

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23 **Paragraphs 30 and 31**

24 Ms. Fard was interviewed on April 30, 2013. Ms. Fard has
25 demonstrated her acceptance of responsibility. Under USSG §3E1.1, Ms. Fard
26 should be given a two level reduction for acceptance of responsibility.
27 Conviction by trial does not automatically preclude a defendant from
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1 receiving this reduction. (n. 2.) This court is entitled to great deference when
 2 finding acceptance of responsibility because of its unique position to evaluate
 3 Ms. Fard's statements and conduct throughout these proceedings. (n. 3.) The
 4 court should consider various factors, including whether a defendant
 5 surrendered, her rehabilitative efforts, and voluntary withdrawal from
 6 criminal conduct or associations. (n. 1.) The reduction for acceptance of
 7 responsibility for this conduct recognizes a legitimate societal interest.

8 Here, Ms. Fard demonstrated her acceptance of responsibility in several
 9 important ways. After Ms. Fard met with attorney Perkins who provided
 10 comprehensive counsel to Ms. Fard regarding all of the convoluted mortgage
 11 transactions and advised her of the potential problems and legalities, Ms.
 12 Fard ceased from applying for any additional mortgages and disassociated
 13 herself with Mina Azariani, the Washington Mutual Broker who facilitated all
 14 but one of Ms. Fard and her family's loans. (n. 1, (D). She also surrendered to
 15 authorities when the Indictment was filed and agreed to go into custody. She
 16 appeared in court in custody at her initial appearance. (n. 1, (D). Finally,
 17 Ms. Fard voluntarily filed amended tax returns for the years at issue in this
 18 case and was willing to pay any taxes due but was informed none are owed at
 19 this time by the IRS. (note 1, (G).)

20 21 **Paragraphs 32-51**

22 Ms. Fard incorporates her arguments and objections to probations
 23 offense level calculations as set forth in her sentencing memorandum.
 24 (Document 360.)

25 **Paragraphs 126, 141 and 159**

26 Ms. Fard objects to the representation in paragraph 126 that she has a
 27 cash flow of \$1903. In comparison to paragraph 141 it appears the PSR failed
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1 to take into account her mortgage of \$2600 in determining cash flow. Ms.
2 Fard's cash flow is therefore -697 per month. Therefore, Ms. Fard does not
3 have the ability to pay a fine.

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6 DATED: May 9, 2013

Respectfully submitted,

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9 s/Correen Ferrentino

CORREEN FERRENTINO

KARREN KENNEY

Attorney for Defendant FARD

CERTIFICATE OF SERVICE

I, Correen Ferrentino, declare:

That I am a citizen of the United States and resident or employed in Orange County, California; that my business address is 600 W. Santa Ana Blvd, Suite 935, Santa Ana, Ca 92701; that I am over the age of eighteen years, and am not a party to the above-entitled action;

That on May 9, 2013, I caused to be transmitted via facsimile to the person(s) below the **DEFENDANT'S SUPPLEMENTAL OBJECTIONS TO PSR**

**Robert Kelpa, USPO
United States Probation Department
United States Courthouse
600 U.S. Courthouse
312 Spring Street
Los Angeles, Ca. 90012**

emailed

This Certificate is executed on May 9, 2013 at Santa Ana, California. I certify under penalty of perjury that the foregoing is true and correct.

May 9, 2013

s/Christina Bristol

Christina Bristol